

District Court Judges 2026 Summer Conference
Criminal Law Case Update
June 25, 2026

Cases covered include published opinions from the North Carolina appellate courts decided between September 17, 2025 and May 22, 2026. Summaries are prepared by School of Government faculty members. These summaries were originally posted on the North Carolina Criminal Law Blog.

If the state constitution's search and seizure provisions imply any exclusionary rule at all, it is subject to a good faith exception; *State v. Carter* is overruled.

[State v. Rogers](#), __ N.C. __ (Oct. 17, 2025) (Newby). In this New Hanover County case, an officer investigating suspected drug trafficking sought a court order allowing him to access the defendant's cell site location information (CSLI). A superior court judge found that the officer's application was supported by probable cause and issued the order. The CSLI revealed that the defendant traveled to California and quickly returned to North Carolina, where he was apprehended with trafficking amounts of cocaine in his vehicle. The defendant was charged with drug offenses and moved to suppress the CSLI. A superior court judge denied the motion and the defendant pleaded guilty, reserving his right to appeal.

The Court of Appeals determined the court order was supported only by reasonable suspicion, not probable cause. It ruled that this violated the defendant's state and federal constitutional rights, and that at least as to the state constitution, no good faith exception was available in light of *State v. Carter*, 322 N.C. 709 (1988).

The Supreme Court seemingly accepted the Court of Appeals' determination that the order was supported only by reasonable suspicion and that probable cause was required. However, it ruled that suppression was not an appropriate remedy. As to any violation of the United States Constitution, the officer reasonably relied on the court order, so the good faith exception from *United States v. Leon*, 468 U.S. 897 (1984), rendered the federal exclusionary rule inapplicable.

Turning to the state constitution, the court noted that prior to *Mapp v. Ohio*, 367 U.S. 643 (1961) (holding that the exclusionary rule applicable to violations of the United States Constitution applies to the states), there was no exclusionary rule for violations of the state constitution. In decisions after *Mapp*, though, the Supreme Court of North Carolina "began

to sow seeds of confusion into our constitutional criminal procedure jurisprudence,” ultimately in *Carter* “proclaim[ing], without explanation,” that violations of the state constitution’s search and seizure provisions require suppression and that no good faith exception exists. The court viewed *Carter* as a confusing and analytically weak opinion that “did not evaluate Article I, Section 20’s text, consider the historical context, or reconcile itself with precedents expressly disclaiming any exclusionary rule other than as provided by statute.” Therefore, the Supreme Court overruled *Carter*. However, it did *not* rule that there is no exclusionary rule for violations of the state constitution. That issue was apparently not briefed by the parties and the court left it for another day. Instead, assuming *arguendo* that the state constitution does imply an exclusionary rule, the court ruled that any such exclusionary rule contains a good faith exception for the reasons set forth in *Leon*. Therefore, the state constitution also did not require the suppression of the CSLI in this case.

Justice Earls, joined by Justice Riggs, dissented. The dissenters would have reaffirmed *Carter*, the “majestic” conception of constitutional protections that it embodied, and the values of judicial integrity and constitutional legitimacy that it promoted. They also criticized the majority’s decision not to decide whether an exclusionary rule exists for violations of the state constitution but nonetheless to establish a good faith exception to the possible rule.

Search of the defendant’s premises conducted solely pursuant to a general administrative tax warrant violated the Fourth Amendment and required suppression of seized evidence.

[State v. Hickman](#), No. COA24-893 (N.C. Ct. App. Nov. 5, 2025) (Flood). In 2022, the North Carolina Department of Revenue (DOR) issued a general administrative tax warrant against Johnnie Denise Hickman for unpaid taxes related to prior drug sales. Issued pursuant to G.S. 105-242, the tax warrant authorized the McDowell County Sheriff’s Office to “levy upon and sell the real and personal property of the said taxpayer.” DOR agents, accompanied by a sheriff’s deputy, entered Hickman’s residence pursuant to the tax warrant. They conducted a search, found methamphetamine and drug paraphernalia, and later obtained the defendant’s written consent to search after detaining her. The defendant moved to suppress the evidence, arguing the search violated her Fourth Amendment rights. The trial court denied the motion, finding the tax warrant gave agents inherent authority to search her residence.

The Court of Appeals disagreed, citing *G.M. Leasing Corp. v. United States*, 429 U.S. 338 (1977) which held that searches for purposes of tax collection must be authorized by a

search warrant if consent is not given. The court emphasized that while tax collection is a legitimate government interest, it does not override Fourth Amendment protections against unreasonable searches, and that the tax warrant does not confer the authority to search. It concluded that the search was unlawful and the evidence must be suppressed, reversing the trial court's order and vacating the judgment.

Knock and talk exception permitted officers to approach defendant's door where they suspected he was selling drugs, the plain smell of marijuana constituted probable cause, and exigent circumstances supported warrantless search.

[State v. Reel](#), No. 34A35 (N.C. Dec. 12, 2025) (Guilford County). The Supreme Court affirmed the Court of Appeals, *per curiam*. A summary of the decision of the Court of Appeals is available [here](#).

Trial court did not err in determining that good faith exception applied and evidence was admissible despite unlawful search.

[State v. Julius](#), No. COA25-277 (N.C. Ct. App. Feb. 4, 2026) (McDowell County). On May 20, 2018, police responded to the scene of a single-vehicle wreck, finding a vehicle immobilized in a ditch. The defendant, who had been a passenger, told police that the vehicle belonged to her parents and a man named Kyle had been driving. Kyle fled the scene, allegedly because he had outstanding warrants. Without a warrant, police searched the vehicle for Kyle's identification and found illegal drugs and drug paraphernalia. They arrested the defendant and found more drugs in her backpack.

The defendant was charged with various drug offenses, including trafficking in methamphetamine. She filed a motion to suppress, contending the search was unconstitutional. The trial court denied the motion, and a jury convicted the defendant of trafficking in methamphetamine and possession with intent to manufacture, sell, or deliver. The defendant appealed. Upon review, the Court of Appeals upheld the trial court's denial of the motion to suppress (opinion summarized [here](#)), and the defendant appealed to the Supreme Court. The Supreme Court concluded the warrantless search was unconstitutional under the Fourth Amendment but remanded for a determination of whether the evidence should be suppressed under the exclusionary rule (opinion summarized [here](#)).

On remand, the trial court determined that probable cause existed and that the good faith exception applied such that the evidence was not subject to the exclusionary rule. The defendant gave notice of appeal. Before the Court of Appeals, she argued there was not

probable cause for the search and, in any event, the trial court erred by concluding the good faith exception applied. Upon review, the Court of Appeals upheld the order. Chief Judge Dillon, writing the lead opinion, noted that the concurring judge disagreed with much of the analysis, limiting the precedential effect of the ruling.

Addressing the trial court's finding that police had probable cause for a search, Chief Judge Dillon agreed with the trial court that the trooper had probable cause to search the vehicle for evidence of Kyle's identity. As for the good faith exception, Chief Judge Dillon stated the exclusionary rule does not apply when officers act in objectively reasonable reliance on binding precedent. Prior to the North Carolina Supreme Court's 2023 opinion in this case (holding the automobile exception did not apply to an immobilized vehicle), binding precedent indicated the automobile exception applied though the vehicle was undriveable. Based on its prior opinion in *State v. Corpening*, 109 N.C. App. 586 (1993), opinions from the United States Supreme Court, and opinions from several federal circuit courts, Chief Judge Dillon concluded the trooper here acted in good faith reliance on binding precedent, and the trial court did not err in denying the defendant's motion to suppress.

Concurring in the result only, Judge Stroud agreed the trial court did not err by denying the motion to suppress because the good faith exception applies, but she rejected the reasoning of both the trial court and the lead opinion. Judge Stroud said the exclusionary rule is applied when the benefit of deterring police misconduct outweighs the costs. Here, there was no evidence police engaged in deliberate, reckless, or grossly negligent disregard for Fourth Amendment rights. Rather, the trooper was mistaken about whether the fleeing driver created an exigency sufficient to conduct a warrantless search of the vehicle. His belief was not culpable but was the type of objectively reasonable good-faith belief that does not warrant exclusion. Because suppressing the evidence would not serve any deterrent purpose, the trial court did not err by denying exclusion. Judge Stroud faulted the trial court and the lead opinion for considering probable cause when "[p]robable cause is irrelevant to the good-faith exception." As for the officer's reliance on binding precedent, Judge Stroud believed the automobile exception, both before and after the Supreme Court's 2023 opinion in this case, would not authorize a warrantless search absent some exigency. Absent a change in law, she concluded, there could be no good faith reliance on prior binding precedent.

Judge Tyson dissented. According to Judge Tyson, the good-faith exception applies when officers reasonably rely upon (1) a warrant later determined to be deficient, (2) subsequently invalidated statutes, (3) erroneous arrest warrant information, or (4) binding appellate precedent. In his view, none of these exceptions are applicable here. Judge Tyson accused the lead and concurring opinions of expanding the good faith exception to include

situations where police neither sought nor obtained a warrant. He said the State failed to prove the good faith exception applied to these facts. Judge Tyson concluded that the trial court erred by denying the defendant's motion to suppress.

Rule 408 did not bar admission of a letter the defendant wrote to law enforcement from the jail offering cooperation in a criminal case; the defendant's Second Amendment argument was unpreserved for appeal.

[State v. Wilson](#), No. COA24-799 (N.C. Ct. App. Oct. 1, 2025) (Gore). In this Wayne County case, the defendant was convicted of attempted first-degree murder, possession of firearm by a felon, and other serious felonies and sentenced to a lengthy consecutive term of imprisonment. The trial court admitted a letter the defendant wrote to law enforcement from the jail in which the defendant wrote that he "shot a gang banger in Dollar General" and offered to help them "get some meth addicts" in exchange for help with his charges. At trial, the defendant objected to admission of the letter, arguing that it was an offer to compromise under Rule 408 of the Rules of Evidence. The court of appeals upheld the trial court's admission of the letter, concluding that Rule 408 does not apply in a criminal case in North Carolina. The court distinguished Federal Rule 408, which, unlike North Carolina's rule, was amended in 2006 and expressly made applicable to both civil and criminal proceedings.

The court of appeals declined to review the defendant's unpreserved Second Amendment argument.

Confrontation violation where surrogate expert testimony offered on blood alcohol concentration.

[State v. Holt](#), COA25-560 (N.C. Ct. App. May 20, 2026) (Wake County) (Griffin). The defendant was convicted of driving while impaired after trial in superior court. On appeal, he argued that his confrontation rights were violated when an expert in forensic chemistry and forensic toxicology testified as to the defendant's blood alcohol concentration. The expert did not perform the analysis and was not involved in the testing, but rather conducted a technical and administrative review of the testing expert's work (the testing expert had retired).

The Court of Appeals agreed with the defendant. Under *Smith v. Arizona*, 602 U.S. 779 (2024), when an expert relies on the work of another expert in forming an opinion and the testifying expert is effectively a "mouthpiece" for the expert who conducted the analysis, the testimony is hearsay, since the underlying conclusions of the analyzing expert are being

offered for the truth of the matter asserted. The court distinguished between analysis based on purely machine-generated processes (a machine cannot offer testimonial statements), and analysis involving human actions not revealed in machine-produced data. In the present case, where the blood analysis involved human observation of the sample for “possible clotting, fermentation, pipetted bubbles, or homogeneity in the blood sample, confirmation of the sample’s sufficient blood volume, and examination of packaging mistakes or vial leaks,” the defendant was denied the opportunity to probe the testing expert’s work when the reviewing expert took the stand as a surrogate. Furthermore, the statements were testimonial given that the analysis was conducted at the Wake City-County Bureau of Identification solely to further the police investigation. As the confrontation violation was not harmless beyond a reasonable doubt, the error was prejudicial and the defendant received a new trial.

Criminal defendants may not subpoena body camera footage and other recordings in the custody of law enforcement agencies; they must use the procedures set forth in G.S. 132-1.4A.

[State v. Chemuti](#), __ N.C. __ (Oct. 17, 2025) (Dietz). Mooresville officers arrested Charlotte Chemuti for resisting a public officer. Prior to trial, she served a subpoena on the police department for any pertinent BWC footage. The town responded in writing that it would not produce recordings except pursuant to the procedures set forth in G.S. 132-1.4A. A district court judge eventually ordered the town to produce any relevant recordings, reasoning that the procedure laid out in G.S. 132-1.4A provides one avenue for obtaining recordings but that a subpoena is also a valid means of compulsory process.

The town appealed. The Court of Appeals dismissed the appeal as premature. The town sought review in the Supreme Court of North Carolina, which determined that the appeal was timely.

On the merits, the Supreme Court ruled that the statutory procedure in G.S. 132-1.4A “supplants the use of a subpoena and is now the exclusive means to obtain [agency] recordings for use in a criminal case.” Chemuti argued that a court-issued subpoena was a court order that satisfied the statute, but the Supreme Court said that in context, the only acceptable kind of order was one issued pursuant to G.S. 132-1.4A itself. Further, the court noted that the statute provides for the direct release of recordings to the district attorney and does *not* provide for comparable direct release to criminal defendants, supporting the idea that the legislature intended the defense to access recordings through the procedures set out in the statute.

The court next considered whether this reading of the statute compromised a defendant's right to present a defense through compulsory process. Relying on *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987) (holding that it was permissible to require a defendant to seek judicial *in camera* review before obtaining the disclosure of exculpatory evidence contained in child abuse/neglect files), the court found no constitutional problem. It observed that the state has a "compelling interest in limiting access to [agency] recordings," which may reveal "places that are not open to public view [including] people's cars, their workplaces, even their bedrooms." Officers may also interact with "people at their lowest or most vulnerable points," including "victims and their suffering." Requiring defendants to go through the statutory process may be somewhat burdensome, but any burden is justified by the confidentiality concerns just noted. Furthermore, any constitutional concern is alleviated by the fact that superior court judges considering requests for access to recordings must rule on those requests "consistent with the defendant's constitutional rights to due process and compulsory process." Specifically, "if a defendant is constitutionally entitled to the records, then the superior court must enter an order for their release, regardless of whether the statute's criteria permit it."

Justice Riggs dissented, joined by Justice Earls. The dissenters would have held that the statutory procedure is not exclusive and that a subpoena is an appropriate way to seek video footage.

Trial court did not err by not instituting a competency hearing sua sponte; trial court did not err by finding that the defendant waived his right to be present at trial; trial court did not err by denying the defendant's request for substitute counsel.

[State v. Chafen](#), No. COA24-1030 (N.C. Ct. App. Sept. 17, 2025) (Mecklenburg County). Around 11 p.m. on May 12, 2023, the defendant called 911 from the waiting room at Novant-Presbyterian Hospital, telling the 911 operator that he wanted to be taken to another hospital. Law enforcement officers responding to the scene found the defendant yelling, cursing, and being uncooperative. Around 1 a.m., police responded to a second 911 call from the defendant's location. The defendant told officers he had been hit by a car, but officers concluded that nobody had actually been struck by a vehicle. Around 3 a.m., police responded to a third call from the defendant's location. This time, the hospital requested assistance with removing the defendant from the premises because he refused to leave. An officer attempted to arrest the defendant for trespassing, but he did not submit. Officers carried the defendant to a patrol vehicle, where the defendant kicked an officer in the head twice.

In December 2023, the defendant was convicted in district court of assault on a government official, resisting a public officer, second-degree trespass, and misuse of the 911 system. He appealed to the superior court. At his trial in superior court, which began on March 19, 2024, the State proceeded only on the assault charge. After a jury was empaneled, the defendant sought to discharge his court-appointed attorney and requested substitute counsel. The trial court refused to allow the defendant to discharge counsel, whereupon he refused to participate in his trial, and he was taken into custody under a secured bond. After the lunch recess, the defendant refused to return to the courtroom and refused to speak with defense counsel. The trial court found that the defendant waived his right to be present, and the State proceeded to introduce evidence. The defendant was convicted of assault on a government official and sentenced to 120 days. He appealed.

Before the Court of Appeals, the defendant argued the trial court erred by (1) failing to order a competency hearing, (2) ruling he waived his right to be present at trial, and (3) failing to conduct a sufficient inquiry into his request for substitute counsel.

Addressing the first issue, the Court of Appeals posited that the trial court has a constitutional duty to institute a competency hearing *sua sponte* when there is substantial evidence indicating the accused may be mentally incompetent. Here, the Court of Appeals found insufficient evidence to warrant the initiation of a competency hearing by the trial court. It noted that the defendant was able to consult with his lawyer and had a rational understanding of the proceedings against him. The Court of Appeals rejected the defendant's reliance on the following circumstances: the defendant was homeless; he said he did not care what happened to him; he informed the trial court at sentencing about previous mental health evaluations; and he volunteered information at sentencing about a prior conviction. The defendant's refusal, it said, "to participate in his trial or with his court-appointed attorney does not constitute substantial evidence requiring the trial court to institute a competency hearing on its own accord." Slip Op. p. 16.

Addressing the second issue, the Court of Appeals said that a defendant may waive the right to be present at his trial through his voluntary absence, so long as he is aware of the processes taking place and of his right and obligation to be present. Here, the defendant argued the trial court erred by finding he waived his right to be present because it failed first to determine whether he was competent to stand trial. But, as the Court of Appeals found insufficient evidence to warrant a *sua sponte* competency hearing, it likewise found the defendant's argument regarding waiver of his right to be present meritless. Further, it noted the defendant voluntarily absented himself from the courtroom, though he was aware of the processes taking place and his obligation to be present.

Addressing the third issue, the Court of Appeals declared that to warrant a substitution of counsel, the defendant must show good cause, such as a conflict of interest, a complete breakdown in communication, or an irreconcilable conflict. Given a request for substitute counsel, the trial court must make sufficient inquiry into the defendant's reasons to the extent necessary to determine whether the defendant will receive effective assistance of counsel. Here, the Court of Appeals said, the trial court inquired into the defendant's request to the extent necessary to determine whether he would receive effective assistance. It noted that the trial court's conversation with the defendant upon his request for substitute counsel revealed that the nature of the conflict was not such as would render counsel ineffective. Once it became apparent that counsel was competent and the assistance of counsel was not ineffective, the trial court was not required to delve any further into the alleged conflict. Absent any constitutional violation, the trial court did not abuse its discretion by denying the defendant's request for substitute counsel.

(1) The trial court did not have an obligation to inquire into the defendant's competency to proceed where no substantial evidence showed she may have been mentally incompetent at the time of trial; (2) for related reasons, the trial court did not err in proceeding with trial in the defendant's absence; (3) the trial court erred in calculating the defendant's prior record level; (4) the trial court erred by imposing punishment for possession of methamphetamine where the offense was a lesser included offense of possession of controlled substance on jail premises, and the defendant was convicted of the latter.

[State v. Stanley](#), No. COA25-158 (N.C. Ct. App. Oct. 15, 2025) (Tyson). In this Johnston County case, the defendant challenged the trial court's decision to proceed with trial without holding a competency hearing and in the defendant's absence, as well as aspects of sentencing. The defendant was convicted after trial of possession of a controlled substance on jail premises, possession of methamphetamine, possession of drug paraphernalia and habitual felon. The defendant contended that her statements and behaviors at the beginning of trial should have caused the trial court to *sua sponte* inquire into her competency. Some of these factors included the defendant's prior drug use, statement that her "mental ain't up to" testifying, reported side effects from mental health medication, and generally irrational and bizarre behavior. In addition, the defendant was late from lunch break on the first day of trial, prompting a warning from the judge that the trial would continue in her absence if she were late again. The defendant was again late on the second day of trial, and the trial proceeded in the defendant's absence. When she arrived, she claimed she had a dispute with her roommate and was unable to find supervision for her dog.

The Court of Appeals held that despite some of the defendant's unusual behaviors, there was a lack of "substantial evidence" showing the defendant may have been mentally incompetent at the time of trial. Noting that the inquiry was "temporal" in nature, the appellate court did not place weight on the defendant's prior drug use and noted that the defendant stated she didn't believe her medications were interfering with her ability to understand the charges and proceedings. The Court of Appeals concluded that the trial court was not compelled to inquire into the defendant's competency. For similar reasons, the court held that it was not error to proceed with trial in the defendant's absence once the defendant was late to court for the second time.

As to the defendant's challenges to her sentencing, the Court of Appeals agreed that her prior record level was incorrectly calculated as her conviction for sale of a Schedule III controlled substance was misclassified as a Class G felony rather than a Class H felony. When properly calculated, the defendant's prior record level was IV rather than V. Furthermore, the Court of Appeals agreed that the defendant should not have been convicted of both possession of a controlled substance on jail premises and possession of methamphetamine because the latter was a lesser-included offense of the former. The Court of Appeals remanded for resentencing.

The trial court erred by proceeding to trial and entering judgment without first determining that a defendant's competency had been restored; a new trial is required when a meaningful retrospective determination of competency is not possible.

[State v. Cooke](#), No. COA25-527 (N.C. Ct. App. Feb. 18, 2026) (Caldwell). The defendant was charged with felony larceny and other crimes. In June 2023, a superior court judge found the defendant incompetent to proceed and ordered a follow-up evaluation. [Note: This appears to have been a determination of incapacity under G.S. 15A-1002, not an incompetency proceeding under G.S. Chapter 35A. This summary follows the language of the opinion.] In March 2024, a psychologist completed a second evaluation and issued a report indicating that the defendant was competent to proceed. However, the trial court did not adopt that report or make findings of restored competency. Nine months later, in December 2024, the defendant was tried and convicted.

On appeal, the defendant argued that the trial court's failure to hold a new competency hearing or enter findings of restored capacity violated G.S. 15A-1002 and due process. The court of appeals agreed. Under existing precedent, an incompetency adjudication remains effective until vacated. The appellate court rejected the State's argument that the defendant waived the right to any further inquiry into his competence when he did not object before trial. The court explained that the constitutional right not to be tried while

incompetent cannot be waived, and that an unvacated order of incompetence is, as a matter of law, substantial evidence that automatically triggers the trial court's duty to conduct a competency hearing. Thus, even if the defendant forfeited his statutory claim under G.S. 15A-1002 by failing to raise it at trial, the trial court "failed to discharge its constitutional obligation to ensure defendant's capacity to stand trial." Slip op. at 7.

As to the remedy, the court vacated the defendant's convictions and ordered a new trial. The court noted that a new trial was not automatically required, but here, given the 9-month delay between the second forensic evaluation and the trial, the record did not permit a meaningful retrospective determination of the defendant's competency.

The trial court did not err in denying a competency evaluation; the trial court did not abuse its discretion when it declined the defendant's request to subpoena all medical and penal records; the trial court complied with G.S. 15A-1242 in accepting the defendant's waiver of counsel.

[State v. Samson](#), No. COA25-317 (N.C. Ct. App. Feb. 18, 2026) (Alexander). The defendant was charged with felony breaking or entering, larceny, and drug crimes, and with habitual felon status. Initially, his appointed lawyer had been communicating with the State about possible plea agreements, but the defendant made a request to proceed without counsel. After a hearing, the defendant waived counsel and the trial court allowed him to represent himself. However, upon hearing the details of the State's plea offer, the defendant said he did not want to waive all counsel, but rather wanted to waive appointed counsel. His waiver form was amended accordingly, with an understanding that he would try to find his own lawyer. Nevertheless, when the matter came on for trial, the defendant said he wanted to represent himself.

From the jail, the defendant made a motion to determine mental capacity, which he clarified was a request for records related to his "lifetime addiction." Slip op. at 6–7. After the defendant confirmed that he was "of sound mind and understanding right now," *id.* at 12, the trial court denied the request. The jury found the defendant guilty and he was sentenced as a habitual felon.

On appeal, the defendant first argued that the trial court erred by denying his motion for a competency evaluation. After clarifying the distinction between competency, capacity to stand trial, and diminished capacity as a defense, the appellate court deemed the issue in question to be whether the trial court should have allowed "some other unknown type of evaluation to aid in proving involuntary intoxication at the time of the offense." *Id.* at 13. After noting that a "trial judge cannot explain to a pro se defendant how best to mount a

defense,” *id.* at 14, the court concluded that the defendant’s failure to request an expert or to request a relevant evaluation rendered the issue waived on appeal.

Next, the defendant argued that the trial court erred by denying his request to subpoena jail, prison, and medical records that might show that he suffered from an addiction. Because the length of his addiction was not at issue, and because the defendant did not seek records that would illuminate his intoxication at the time of the crimes that might implicate ability to form specific intent, the court of appeals concluded that the trial court did not abuse its discretion in denying the request.

Finally, the defendant argued that the trial court erred by allowing him to represent himself. The court of appeals concluded that the waiver colloquy ultimately conducted when the case was called for trial complied with G.S. 15A-1242 and related constitutional standards for a knowing, voluntary, and intelligent waiver of counsel. Additionally, the court rejected the defendant’s argument that the trial court’s failure to inform him of approximately \$4,000 in potential court costs meant he was not properly informed about the “range of permissible punishments” he could face—especially when the trial court had properly advised him of the nearly fifty years in prison he could face for multiple habitual felon charges.

Trial court erred by conducting summary criminal contempt proceedings when the defendant’s conduct constituted indirect criminal contempt.

[State v. Brinkley](#), No. COA24-681 (N.C. Ct. App. Sept. 17, 2025) (Pasquotank County). In April 2023, the defendant pled guilty to voluntary manslaughter and was sentenced to a minimum 58, maximum 82 months. The trial court ordered him to report to jail on June 12, 2023. The defendant failed to report to jail then, and the trial court issued an order for his arrest. He was arrested on January 2, 2024. On January 16, 2024, the trial court, pursuant to a summary contempt proceeding, held the defendant in direct criminal contempt and sentenced him to an additional thirty days.

The Court of Appeals granted the defendant’s petition for certiorari to address the question of whether the trial court erred by holding him in direct criminal contempt. Summary contempt proceedings are permissible for direct criminal contempt. G.S. 5A-14(a). Direct criminal contempt occurs if the act is committed within the sight or hearing of the presiding judge and in, or in the immediate proximity to, the room where proceedings are being held before a court. G.S. 5A-13(a).

Here, the defendant’s willful failure to comply with the trial court’s order constituted an act of criminal contempt. But his failure to report occurred outside of the presence of the

court. Hence, the defendant's conduct did not constitute direct criminal contempt (as the State conceded), and the trial court consequently erred by conducting summary contempt proceedings. The Court of Appeals vacated the trial court's order and remanded for further proceedings.

(1) The trial court properly concluded that the defendant forfeited his right to counsel; (2) the trial court erred in holding the defendant in direct criminal contempt where the defendant was not given a summary opportunity to respond the day he was held in contempt; though he was given an opportunity to respond the following day, summary proceedings were no longer appropriate and plenary proceedings should have been initiated.

[State v. Jacobs](#), COA24-1081 (N.C. Ct. App. Dec. 17, 2025) (Cabarrus County) (Hampson). The defendant was charged with resisting a public officer, failure to heed light or siren, reckless driving, and speeding based on an incident in which the defendant did not pull over for several minutes after being blue-lighted by law enforcement. In district court, two attorneys withdrew from the representation and the court found that the defendant had forfeited his right to counsel. The defendant was convicted of all charges and appealed. In superior court, the defendant's third attorney moved to withdraw, citing disagreement with the defendant as to whether certain motions should be filed. At a hearing on forfeiture of the right to counsel, the defendant questioned the jurisdiction of the court and the court found that the defendant was "insisting" that his lawyer file frivolous motions unsupported by facts or law. The court concluded that the defendant had forfeited his right to counsel. Defendant was subsequently convicted of all charged at trial.

At sentencing, the defendant expressed his desire to appeal and requested transcripts of the proceedings. He then stated to the court, "I'll see you in federal court, bucko." The court deemed the statement a threat and imposed a 30-day sentence for contempt of court. A back-and-forth ensued with the defendant responding, "add it up, bro," and asking for "more," and the court imposing five additional consecutive 30-day sentences for direct contempt. The court revisited the matter the following day while correcting a sentencing error arising from the trial convictions. The court stated that it had not "decided in final" how to handle the contempt matter and was giving the defendant an opportunity to be heard. The defendant stated he did not intend to threaten the court and was just trying to exercise his right to appeal. However, the trial court concluded that the six consecutive sentences for contempt were justified based on the defendant's willfully interrupting court proceedings and disrespecting the authority of the court. Approximately one month later,

the court *sua sponte* modified the contempt sentences, consolidating the six sentences into one 30-day sentence.

On appeal, the defendant challenged two aspects of the proceedings: (1) the trial court's conclusion that the defendant forfeited his right to counsel, and (2) the trial court's holding the defendant in direct criminal contempt. As to the forfeiture, the court concluded that the defendant willfully delayed and obstructed court proceedings, causing three different attorneys to withdraw from representation. The court stressed the defendant's demands that counsel file "baseless motions" and "causes of action improper under the law." The defendant also interrupted and disrupted proceedings during the forfeiture hearing. The Court of Appeals held that the trial court properly concluded that the defendant had forfeited his right to counsel.

However, as to the contempt, the appellate court agreed with the defendant that the trial court did not give him an adequate opportunity to be heard in response to the finding of direct criminal contempt as required by G.S. 5A-14(b). Though only a "summary" opportunity to respond is required by statute, the appellate court found that the brief protestations in the back-and-forth between the court and the defendant did not amount to an adequate opportunity. This was error even though the defendant was given a "full opportunity" to respond the following day, since summary proceedings were no longer appropriate after the unnecessary delay. Rather, plenary proceedings under G.S. 5A-15 should have been initiated after the trial court deferred adjudication and sentencing for one day (plenary proceedings would require the drafting and service of an order to show cause). As the appellate court found error in the lack of opportunity to respond, the court did not reach the question of whether the defendant's behavior warranted a finding of direct criminal contempt.

(1) Obstruction of justice does not require as an element that the defendant actually succeed in preventing officers from finding evidence; (2) felony cruelty to animals requires actual knowledge of an animal's presence to satisfy the crime's malice element.

[State v. Ford](#), No. 31A24 (N.C. Dec. 12, 2025) (Buncombe County). The facts of this case arose from an encounter between the defendant, owner of an event rental business, and a person named Alex McPherson. Mr. McPherson was known around Asheville as the "Cat Man" because he was often seen with his cat, Thomas, who sometimes rode in a stroller. Witnesses saw the defendant drive his work truck into the stroller, scaring the cat. When officers investigated the incident, the defendant told them he "had no clue" who was driving the truck and did not share documentation showing truck assignments for the day

in question, even though documentation for every other day from that timeframe was still in the office recycling bin. Officers eventually found the day's schedule through a search of the defendant's phone. The defendant was tried for felony obstruction of justice and felony cruelty to animals. The trial court trial court denied the defendant's motions to dismiss the charges and the jury found him guilty of both crimes.

On appeal, the Court of Appeals affirmed the convictions over a dissent. As to the animal cruelty charge, the court deemed the evidence adequate to support the conclusion that the defendant "knew or should have known" that the McPherson had a cat with him in the stroller.

The Supreme Court affirmed the Court of Appeals, concluding that the trial court did not err in denying the defendant's motions to dismiss. As to the obstruction of justice charge, the court noted that disposal or destruction of a document sought by law enforcement can constitute obstruction of justice even when officers succeed in obtaining it by other means. In other words, the defendant's "success" in actually obstructing justice is not an element of the offense. Additionally, the existence of a standard business practice of discarding documents did not foreclose the possibility that the defendant intentionally obstructed justice in this case. That documentation from other days was still in the recycling bin supported the inference that the spreadsheet from the particular day in question was disposed of irregularly and outside of standard practices.

As to the felony cruelty to animals charge, the Supreme Court noted that the Court of Appeals misstated the intent element of the offense to the extent that it said it could be satisfied if the defendant "should have known" that the cat was in the stroller. The crime requires malice as an element, malice requires intentionality, and intentionality in turn requires actual knowledge. Notwithstanding the Court of Appeals' misstatement, the Supreme Court affirmed, concluding that the State presented sufficient circumstantial evidence that the defendant actually knew Thomas the cat was in the stroller.

Justice Berger concurred, writing separately to clarify that the burden required for the State to survive a motion to dismiss for insufficient evidence is "more than a scintilla of competent evidence," which, he said, is "not a high bar."

Assault on a female is a general intent crime, and the State need not prove that the defendant specifically intended to assault a female victim.

[State v. Horton](#), No. COA25-888 (N.C. Ct. App. May 6, 2026) (Guilford County). The defendant contacted a locksmith to create a key for his vehicle. When he met the locksmith to get the key, he sprayed pepper spray and took the key without paying. The pepper spray

hit the locksmith and the locksmith's young daughter, who was in his truck. The defendant was convicted at a jury trial of common law robbery and assault on a female. On appeal, the defendant argued that the trial court erred in denying his motion to dismiss the assault on a female charge because he did not know anyone other than the locksmith was in the truck. The Court of Appeals disagreed, concluding that assault on a female is a general intent crime, and the State need not prove that the defendant acted with the specific intent to assault a female victim, only that he intended to spray someone. The defendant's conviction was therefore affirmed.

(1) The First Amendment protected the silent display of a crude banner criticizing a county commissioner at a board meeting; (2) the defendant was entitled to resist an unlawful arrest where he used reasonable force.

[State v. Barthel](#), No. COA25-159 (N.C. Ct. App. Nov. 5, 2025) (Stroud). In January of 2024, William Barthel attended an Avery County Board of Commissioners meeting. Shortly after the meeting began, Barthel stood against the back wall and, without blocking anyone's view, held up a banner with vulgar language criticizing Commissioner Cindy Turbyfill. The banner contained a picture of the commissioner with the phrase "I'm no gynecologist but I know a c**t when I see one" (original uncensored). Law enforcement officers approached him and instructed him to put the banner down. He refused, arguing with law enforcement and pulling away from them. He was charged with disrupting an official meeting and resisting a public officer. He was convicted of both offenses after a jury trial and timely appealed.

The Court of Appeals held that the defendant's silent protest was protected speech. Although offensive, the banner did not meet the legal standard for "fighting words," which must be likely to provoke immediate violence. The Court emphasized that criticism of public officials is core political speech and receives heightened constitutional protection. The meeting was deemed a limited public forum, where content-based restrictions are allowed only if they are reasonable and viewpoint-neutral. The Court found that the defendant's removal was based on the offensive nature of his message, not any actual disruption. The disruption occurred only after law enforcement intervened, and the banner itself did not block views or interrupt proceedings. Therefore, the Court found the defendant did not disrupt the meeting and was engaged in protected speech. Regarding the resisting a public officer charge, the Court reaffirmed that individuals have the right to resist unlawful arrests using reasonable force. The defendant's resistance was mostly verbal and nonviolent. Because his arrest violated the First Amendment, his limited

resistance to that arrest was justified and could not sustain a conviction for resisting a public officer.

The trial court had no authority to order a civil judgment for a fine immediately at sentencing.

[State v. Santana](#), No. COA24-946 (N.C. Ct. App. Oct. 1, 2025) (Collins). In this Burke County case, the defendant was convicted after a jury trial of drug trafficking and other offenses. In addition to the mandatory active sentence, the trial court ordered a \$250,000 fine—in the form of a civil judgment. The trial court also ordered \$1,615 in costs and attorney fees as civil judgments. Through a petition for writ of certiorari, the defendant challenged the civil judgments for the fine and costs, arguing that the trial court had no authority to impose them immediately at sentencing. The court of appeals agreed. Under G.S. 15A-1365, a judge may docket costs or a fine when a defendant has defaulted, but there is no authority to do so without first determining that Defendant had defaulted in payment. The court noted that the defendant was prejudiced by the premature entry of the judgment, as over \$17,000 in interest had accrued on the civil judgment in the year since its entry. The court vacated the judgments. The court also remanded the matter for correction of a clerical error as to the offense classification.

There was sufficient evidence of the defendant’s drug convictions; the trial court did not commit plain error by failing to read a portion of the jury instruction on constructive possession; the trial court erred by not considering the defendant for conditional discharge under G.S. 90-96.

[State v. Verdi](#), No. COA24-1014 (N.C. Ct. App. Oct. 1, 2025) (Gore). In this Stanly County case, the defendant was convicted after a jury trial of possession of methamphetamine and possession of drug paraphernalia. The defendant argued on appeal that the trial court erred in denying her motion to dismiss for insufficiency of the evidence and in its jury instruction on constructive possession. She also argued that the trial court erred by imposing a sentence rather than a conditional discharge under G.S. 90-96. As to the motion to dismiss for insufficiency of the evidence, the court of appeals concluded that it was properly denied when the defendant was seen in or leaving the bedroom where drugs and drug paraphernalia were found and her driver’s license and credit card were found in the bedroom. As to the jury instruction (which the defendant did not object to at trial), the court of appeals concluded that the trial court erred by reading only a portion of instruction N.C.P.I.—CRIM. 104.41 and failing to include the portion that defines constructive possession, but that the omission did not amount to plain error. Finally, the appellate court

concluded that the trial court erred by failing to consider conditional discharge under G.S. 90-96. Under the language of that statute, as interpreted in *State v. Dail*, 255 N.C. App. 645 (2017), conditional discharge is mandatory unless the court determines and the district attorney agrees that it is inappropriate. The court rejected the State’s argument that the statutory language requiring the defendant’s “consent” requires the defendant to initiate a request for conditional discharge to trigger the trial court’s obligation to consider it. To the contrary, the court of appeals said, the court must consider conditional discharge for any defendant—like the defendant here—who is eligible. The court remanded the case for a new sentencing hearing.

(1) Where the trial court did not indicate that probation would begin after completion of an active sentence, the probation period ran concurrently with the defendant’s imprisonment; (2) a probation violation report that does not explicitly identify “absconding” may sufficiently allege facts that put the defendant on notice of an absconding violation and revocation; (3) willfully leaving a residential treatment facility and not contacting probation for nine days until being arrested constituted absconding.

[*State v. Stephens*](#), No. COA24-590 (N.C. Ct. App. Nov. 5, 2025) (Stroud). In July of 2017, Jerry Stephens pled no contest to various crimes involving drug use, breaking and entering, and larceny after breaking and entering. The trial court sentenced the defendant to an active sentence in some of the cases and suspended the defendant’s sentence for 36 months of supervised probation in the others. When the defendant was on supervised probation after serving the active sentences, the State filed probation violation reports in Dare County, the first of which was dated 4 October 2021. The trial court found that the defendant willfully violated his probation and revoked his probation for absconding from supervision in ten cases. The defendant timely appealed.

The Court first held that the trial court lacked jurisdiction to revoke probation in nine of the ten cases because the probationary periods had expired before the revocation judgments were entered. In those nine cases, the trial court did not indicate that probation would begin after the defendant served his active sentence. As a result, the Court found that those probation periods ran concurrently with the defendant’s active sentence and expired in July of 2020, well before the first violation report in October of 2021. In the final case that the defendant appealed, the trial court did check the box that probation would begin after the defendant served his active sentence. The Court rejected the defendant’s argument in that case that he lacked notice of the absconding violation where the violation report did not explicitly identify “absconding” as grounds for violation. Because the defendant was on

notice that absconding would be a violation of his probation, and the violation report included the actions the defendant took, the Court found the defendant was sufficiently on notice. The Court upheld the absconding finding where the defendant left a mandated residential treatment program in violation of his probation conditions and did not make his whereabouts known or contact his probation officer for nine days between his unauthorized departure and his arrest. Finally, the Court declined to review the defendant's challenge to an anticipatory bond condition imposed in a separate, unappealed June 2023 order.

Guilford County Superior Court lacked jurisdiction to revoke Defendant's probation absent evidence that Defendant was sentenced, violated probation, or resided in Guilford County.

[State v. Crabtree](#), No. COA25-395 (N.C. Ct. App. Dec. 3, 2025) (Guilford County). On June 27, 2022, in Franklin County, Defendant was convicted of felony fraudulently burning a dwelling and conspiracy and sentenced to two consecutive sentences of six to seventeen months. That sentence was suspended, and Defendant was placed on supervised probation for sixty months. On August 31, 2024, in Guilford County, Defendant's probation officer filed violation reports alleging that Defendant had violated the terms of his probation by, among other things, committing new criminal offenses in Pennsylvania. The violation reports came on for a hearing on September 9, 2024, in Guilford County. The trial court revoked probation and activated the suspended sentences.

Defendant's pro se notice of appeal was defective, and the Court of Appeals granted his petition for certiorari to review the orders revoking probation. Defendant argued, among other things, that the trial court lacked jurisdiction to revoke probation. By statute, probation may be revoked by any judge entitled to sit in the court which imposed probation and who is resident or presiding in the district where the sentence of probation was imposed, or where the probationer violates probation, or whether the probationer resides. G.S. 15A-1344(a). Here, the Court of Appeals observed (1) Defendant's sentence and probation were imposed in Franklin County; (2) the violation was alleged to have occurred in Pennsylvania; and (3) there is no indication Defendant resided in Guilford County. The Court of Appeals concluded that the Guilford County Superior Court therefore did not have jurisdiction to revoke probation, and it vacated the September 13, 2024, judgments.

A notice of a probation violation alleging commission of a new offense was sufficient when it identified the date of the offense, the county in which it occurred, and the case

number – even though it described the offense as “assault on a female” while the defendant pled guilty to simple assault.

[State v. Ferguson](#), __ N.C. App. __ (Mar. 18, 2026) (Lee County) (Collins, J.). In 2022, the defendant pled guilty to a drug offense and another charge and received suspended sentences and was placed on probation. In 2024, he was charged with assault on a female and pled guilty to simple assault. His probation officer then issued a violation notice alleging that he had committed “assault on a female” and referencing the case number. The notice also alleged that the defendant had tested positive for drugs and was in arrears on his probation fees. The defendant waived a formal violation hearing and admitted violating his probation. The judge activated his suspended sentences, running them consecutively. The defendant appealed.

He first argued that the trial court lacked jurisdiction, contending that the probation violation notice was inadequate because it referred to assault on a female while he had actually pled guilty to simple assault. The court of appeals ruled that the notice was sufficient as it “identified the date of the offense, the county in which it occurred, and the corresponding case number.” This was enough to enable the defendant to understand the allegation and to prepare a defense.

He further argued that the trial court abused its discretion in revoking his probation, but the court of appeals disagreed, noting that G.S. 15A-1344 expressly allows a court to revoke probation when the violation is the commission of a new criminal offense.

Finally, the defendant argued that the trial court abused its discretion by running his suspended sentences consecutively rather than concurrently. The court of appeals deemed the argument moot because the defendant had already completed his active time and there were no collateral consequences that resulted from the sentences running consecutively rather than concurrently.

(1) The sentence rendered in open court impermissibly differed from the written judgment entered outside of the defendant’s presence; (2) there was insufficient evidence for one of the defendant’s eight convictions.

[State v. Horne](#), No. COA25-655 (N.C. Ct. App. May 6, 2026) (Guilford County). The defendant was convicted at a jury trial of eight counts of discharging a firearm into an occupied vehicle in operation inflicting serious bodily injury. The convictions arose from an incident where the defendant and another man fired multiple shots at an SUV, whose occupant testified to being shot “maybe seven” times. At sentencing, the trial court orally pronounced, “We are going to consolidate the charges into the first three counts. Those are

all Class C felonies. . . . Each sentence is going to be for the same. They are all going to be consecutive sentences. I sentence the defendant to 58 months minimum, 82 months maximum.” The same day, the court signed six written judgments, each imposing a consecutive active term of 58 to 82 months.

On appeal, the defendant argued that the trial court erred by entering written judgments that did not reflect the sentence orally pronounced in open court. In light of the large disparity between the judgment seemingly rendered in open court and the written judgment entered outside of the presence of the defendant, the Court of Appeals agreed, vacating the sentence and remanding the matter for entry of a new sentencing judgment.

The defendant also argued that there was insufficient evidence for two of the eight convictions for discharging a firearm into an occupied vehicle in operation inflicting serious injury. Though there were eight bullet holes in the victim’s car, the Court of Appeals concluded that the trial testimony supported only seven instances of violations resulting in serious bodily injury. The court remedied the error by “arrest[ing] judgment” on one of the defendant’s eight convictions.

Extension of probation was not authorized under G.S. 15A-1342(a) as it did not occur in the last six months of the original period of probation and was improper under G.S. 15A-1344(d) as the trial court did not make requisite findings of good cause to extend; the trial court lacked jurisdiction to revoke probation after original period expired.

[State v. Smith](#), COA25-713 (N.C. Ct. App. May 20, 2026) (Craven County) (Carpenter). The defendant was placed on probation for 36 months after entering an *Alford* plea on 16 felonies in November 2020. In December 2021, the state filed a probation violation report, and in April 2022, the state requested a probation extension of 24 months to reset the payment plan for restitution. Defense counsel agreed and the court extended the probation. The trial court did not make findings of good cause under G.S. 15A-1344(d), nor did the written order specify that the extension was entered pursuant to G.S. 15A-1342(a), which allows for certain extensions in the last six months of the original period of probation. Subsequent violation reports were filed in 2022 leading to a modification of various financial obligations. Additional violation reports were filed in 2024, and a hearing on these allegations resulted in the defendant’s probation being revoked and his sentence being activated. The defendant filed a handwritten, deficient notice of appeal.

As the defendant failed to timely file his notice of appeal, he sought review through a petition for writ of certiorari. The Court of Appeals granted the defendant’s petition, concluding that he had met his burden of showing that an error was probably committed

and that extraordinary circumstances (such as an unwarranted extension of probation) existed. Addressing the merits of the defense's claims, the Court of Appeals agreed that the trial court lacked authority to extend the defendant's probation in 2022. The extension was not authorized by G.S. 15A-1342(a) because it did not occur during the last six months of the original period of probation, and the extension was not valid under G.S. 15A-1344(d) because the trial court made no findings of good cause for the extension. As the extension was not proper, the period of probation expired in November of 2023, and the trial court lacked jurisdiction to revoke the defendant's probation in 2024. The court vacated the judgment and remanded for further proceedings.